

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
SALUSTIANO SANABRIA

Plaintiff,

-v-

LAVA SHWARMA, INC., et al,

Defendants.

CIVIL ACTION NO.: 23 Civ. 06433

(JGK) (RFT)

ORDER

ROBYN F. TARNOFSKY, United States Magistrate Judge.

On December 7, 2023, Plaintiff Salustiano Sanabria (“Sanabria”) and Defendant 57 Clinton Street LLC (“57 Clinton”) filed a letter requesting a conference to amend the case management plan of October 12, 2023 (ECF 29). By Order of Reference dated December 8, 2023 (ECF 30), Judge John G. Koeltl referred this case to Magistrate Judge Valerie Figueredo for general pretrial supervision, including scheduling, discovery, non-dispositive pretrial motions, and settlement. On December 11, 2023, that referral was reassigned to me.

This is the Parties’ first request to amend the discovery schedule. It is premised in part on avoiding prejudice to certain Defendants that have not yet appeared.

Plaintiff filed his complaint on July 25, 2023, against 57 Clinton and Lava Shawarma, Inc. (“Lave Shawarma”). (ECF 1.) On September 29, 2023, 57 Clinton appeared and filed its Answer. On November 9, 2023, Plaintiff filed an Amended Complaint (AC), adding Defendant Lava NYC, Inc. (“Lava NYC”). (ECF 20.) On November 29, 2023, Plaintiff filed an affidavit of service for the AC as to all Defendants (ECF 26-28), but neither Lava NYC nor Lava Shawarma has appeared. While I acknowledge Plaintiff’s counsel’s efforts to communicate with Lava Shawarma and Lava

NYC to convince them to appear, I will not be inclined to grant another request to amend the case management schedule absent very good cause.

Accordingly, Plaintiff and Defendant 57 Clinton Street LLC are ORDERED to file, by **January 16, 2024**, a joint status letter with a new proposed discovery schedule.

Additionally, Plaintiff is ORDERED to file, by **January 23, 2024**, either (1) a motion for a default judgment against any Defendants that have not appeared; or (2) a voluntary dismissal of this case without prejudice against any such Defendants pursuant to Fed. R. Civ. P. 41(a)(1)(A); or (3) a letter informing this Court of a settlement with any such Defendants.

Plaintiff is directed to serve a copy of this Order on Lava Shawarma and Lava NYC and to file proof of such service on the docket by **January 2, 2024**.

Dated: New York, New York
December 18, 2023

SO ORDERED.



ROBYN F. TARNOFSKY
UNITED STATES MAGISTRATE JUDGE